

January 22, 1976

My Committee members are knowledgeable people in this area. They have had all the background that, in my opinion, is necessary to make a decision and I will defend them to the hilt and I am astonished that any member of this Legislature, and I refrain many times from talking about the membership because that is not my philosophy and I don't believe in it, but I will tell you this that when anybody on this floor gets up and challenges the membership of my Committee and their decisions, I am going to say something and I think every Committee in this body has those same capabilities and that includes the Committees you sit on, Senator Koch, and I recognize your abilities and your decisions and I hope that from here on you will recognize the decisions and the statements that are made by my Revenue Committee. They are good ones and I will defend them to the last. One other thing, Mr. President, that was raised here was the constitutionality of this delegation of authority and I refer again, as I did in my earlier remarks, to a letter that I requested from the Attorney General, and Senator Murphy, I hope you will listen to this because it was your statement that I refer to, specifically, when I reread a portion of this letter. Your specific question with respect to the statutory provision is whether it would be advisable to have a specific limitation on the reserve provided for by the provisions in this question. We conclude that it would be wise and that it might eliminate a possibly successful attack on the constitutionality of this provision. It is true that in *Anderson vs. Tiemann*, 182 Nebraska 393 155 NW 2nd 32 1967, the court discussed the general question of delegation of legislative power to the State Board of Equalization and Assessment to set the tax rates pursuant to section 77-2715.01 and held that the bill constituted a valid and lawful delegation of authority to the Board and did not violate the Constitutions of Nebraska or the United States. And then in his concluding remarks, if I may continue, Mr. President, relative to the placing of a ceiling in addition to the floor, the Attorney General's final paragraph is this. Since the court did not discuss this specific question and since it was not directed to the attention of the court by the litigants, we cannot say with any confidence that the court might not now invalidate this provision, if it was called to its attention. We are, therefore, of the opinion that it would be well to provide for an upper limit to the reserve which may be provided for the rate setting operation. I think that will answer your constitutionality question, I hope. I believe that the bill has been thoroughly discussed and we have had several options here on the floor, as our Committee had, and as the bill was originally drafted using those comments and the input that we have had for sometime into the drafting of this bill. I would urge that you support this bill and that it become a permanent part of our statutes regarding the State Board of Equalization. Thank you, Mr. President.